

STATE OF NEW YORK: COUNTY OF NASSAU

Nassau County Court

Indictment No. 1992-1850B

THE PEOPLE OF THE STATE OF NEW YORK

- AGAINST-

MIGUEL CUTIGNOLA ,
(D.O.B. 9/29/92)

MEMORANDUM OF
NEGOTIATED PLEA
AND ALLOCUTION

Defendant

The Defendant, after consultation with his attorney, acknowledges the following and requests that the same be made part of the record in open Court:

1. My name is Miguel Cutignola and my date of birth is 9/29/92.
2. I fully understand the English language and the nature of this proceeding today.
3. I am not a citizen of the United States. I have consulted with my attorney, as well as an immigration attorney, regarding the consequences that this plea may have on my immigration status and ability to remain in the United States.
4. I am not now under the influence of any alcoholic beverage or narcotic drugs.
5. I have not taken any medications that have impaired my ability to think clearly or make rational decisions.
6. I understand that I have a constitutional right to remain silent, but I waive said right in order to enter this Memorandum of Negotiated Plea and Allocution (hereinafter referred to as "Memorandum").
7. I have had a full and ample opportunity to discuss the Memorandum with my Attorney, Patrick O'Connell, Esq.
8. I am fully satisfied with my Attorney's representation of me in connection with this matter, including the advice and recommendation to enter into the Memorandum.
9. My Attorney has fully explained to me the law that I am accused of violating, the terms and conditions of the Memorandum, all of my legal rights with respect to said plea, and the consequences that may result from entering said plea, including the maximum sentence allowed by law.
10. I understand that I have an absolute right to a jury trial, or trial without a jury, and that by entering into the Memorandum, I waive said rights.
11. I understand that upon a trial the burden is upon the prosecution to prove me guilty beyond a reasonable doubt with regard to each and every element of the crime(s) charged and that I do not have to prove my innocence.

12. I understand further that by entering into the Memorandum I am giving up my right to confront each and every witness brought before the Court and the right to have my attorney cross-exam each one of these witnesses.
13. I also understand that by entering into this Memorandum I am giving up the right to testify and/or call witnesses on my own behalf.
14. I understand that by entering into this Memorandum I am giving up any and all rights associated with a trial.
15. I understand that a plea of guilty is the same result as if I had gone to trial and been found guilty to the crime to which I am pleading guilty.
16. No one has coerced, threatened or forced me to enter into the Memorandum.
17. I am entering this plea because I am guilty of the crime to which I am pleading guilty.
18. Other than the agreement with regard to the sentence, no one has made any promises to me in order to get me to enter into the Memorandum.
19. I am pleading guilty to the charges set forth in the Memorandum of my own free will and accord, knowing that the recommended sentence is not binding on the Court, since the Court has not yet received and reviewed the pre-sentence investigation.
20. I understand that by entering into the Memorandum I am giving up my right to have the Court consider any motions that have been made or could have been made on my behalf and any pre-trial hearings to which I would have otherwise been entitled.
21. I understand that I am also giving up my right to appeal to the extent that I receive the recommended sentence, since I would, therefore, have received the benefit of the bargain contemplated by the Memorandum.
22. I understand further that if the Court imposes a harsher sentence than bargained for in the Memorandum I will be given an opportunity to withdraw my plea.
23. I have had a full and complete opportunity to discuss with my Attorney the quantum of proof possessed by the Justice Center and the District Attorney's Office as well as any defenses that I might have used in this case and I understand that by entering into the Memorandum I am signifying my understanding of the finality and ramifications of such action.
24. In this case, I agree to plead guilty to one count of Criminal Sexual Act in the Third Degree, in violation of New York State Penal Law Section 130.40(1).
25. I admit that on or about and between July 2, 2017 through July 3, 2017, I was employed as a Youth Counselor at Mercy First, located at 525 Convent Road, Syosset, in Nassau County, New York.
26. I admit that the victim in this case, [REDACTED], is a person who on those dates was placed at Mercy First as a resident, and was supervised under the guardianship and care of said facility by New York State.
27. I admit that on or about July 2, 2017 through July 3, 2017, while working as a Youth Counselor at Mercy First, I engaged in oral sexual conduct with the victim, who was

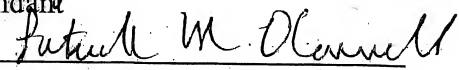
██████████ old at the time. I was over the age of 21 years old at the time. The victim was in my care and custody at the time of this incident.

28. I agree that by entering this plea I am agreeing that the sentence to be imposed will be ten (10) years probation with sex offender conditions and treatment through probation (the terms and conditions of which to be determined by the Court and Probation, with the additional condition that I will abide by this written agreement), that I will have to register as a sex offender pursuant to SORA and after a hearing determines my SORA registration level, waiving my right to appeal both plea and sentence to a higher court, and that a Stay Away Order of Protection will be issued for the complainant on this case.
29. I hereby agree to waive my right to appeal any substantiated finding by the Justice Center concerning whether my conduct in the incident underlying the prosecution, constitutes abuse or neglect under Article 11 of the Social Services Law, including a finding that results in my name being entered onto the Justice Center's Staff Register of Substantiated Category One Cases of Abuse or Neglect. I understand that a finding of Substantiated Category One by the Justice Center, while not public information, will result in my being barred, in New York State, from employment in a position involving regular and substantial contact with vulnerable persons, in accordance with Social Services Section 495. I acknowledge that I have had an opportunity to discuss this waiver of my right to appeal any such substantiated finding with my attorney and that, after such consultation, it is still my intention to waive my right to appeal.
30. I hereby immediately resign from my position as an employee with Mercy First in Syosset, New York. I additionally agree to never seek employment or reinstatement to any position at any facility or provider agency as defined in Social Services Law 488(4) and all other providers of services to vulnerable persons in programs operated, licensed or certified by any state oversight agency, as defined in Social Services Law 488(4-a) where-in I would have regular and substantial contact with any such service recipient of any such facility or program.

I hereby acknowledge that I have fully and thoroughly reviewed the aforesaid Plea Allocation, discussed the same with my attorney, and understand each and every paragraph hereof. I further attest to the truthfulness of the representations made herein and knowingly and freely agree to be bound by the said Plea Allocation, subject to my own peril, as a condition to the Court accepting the Memorandum of Plea Bargain entered into by me this date.

Date: 6-4-14


Defendant


Attorney for Defendant